

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CRIMINAL 00-0861CCC

1) ALEXIS BETANCOURT-SANTANA
a/k/a Alex a/k/a Gordo a/k/a Papo el Gordo
(Counts One, Two, Three and Six)
2) OMAR TIRADO-DAVILA
a/k/a Pintura (Counts One, Two and Six)
3) LUIS MANUEL MOJICA-ROJAS a/k/a Mojica
(Counts One and Two)
4) BENJAMIN APONTE-CRUZ a/k/a Benji (Counts
One, Two and Three)
5) **URIAS BARRETO-RIVERA** a/k/a Uria
(Counts One, Two, Three and Five)
6) CARLOS CANALES-FARGAS a/k/a Arnold
a/k/a Negro (Counts One, Two and Three)
7) EDUARDO RIVERA-PEREZ, a/k/a Canoboom
a/k/a Canobum a/k/a Canito (Counts One, Two,
Three and Six)
8) JUAN M. TIRADO-NIEVES a/k/a Tirado
(Counts One, Two and Three)
9) OMIOSE RIVERA-GIBOYEAK, a/k/a Omi
(Counts One and Two)

Defendants

O R D E R

Having considered the Motion to Vacate, Set Aside or Correct Criminal Sentence Pursuant to 28 U.S.C. § 2255, Blakely v. Washington, 542 U.S. ____ (6/24/2004) and Dodd v. United States, 545 U.S. ____ (6/20/2005) filed by defendant Urias Barreto-Rivera on June 23, 2005 (**docket entry 1123**), the same is DENIED. Defendant Barreto-Rivera was sentenced on February 19, 2003 (docket entry 1006). He never appealed his sentence. The Supreme Court has not made either Blakely v. Washington, 542 U.S. ----, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004), or for that matter United States v. Booker, --- U.S. ----, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005), retroactively applicable to cases on collateral review. See, e.g., Green v. United States, 397 F.3d 101 (2d Cir. 2005). See also United States v. Price, 400 F.3d 844, 849 (10th Cir. 2005) (holding Blakely does not apply retroactively to convictions that were already final at the time Blakely was decided).

SO ORDERED.

At San Juan, Puerto Rico, on July 12, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge